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INTRODUCTION AND RECOMMENDATIONS
FROM
REPORT TO THE PRESIDENT & CONGRESS

Maritime Labor Board

M A R I T I M E L A B O R B O A R D

INTRODUCTION AND RECOMMENDATIONS

FROM

REPORT TO THE PRESIDENT AND TO THE CONGRESS

March 1, 1940

MEMBERS

Robert W. Bruere, Chairman

Louis Bloch

Claude E. Seehorn

924 New York Avenue
Washington, D.C.

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INTRODUCTION

This report is submitted in compliance with Section 1010 of Title X of the Merchant Marine Act of 1936, as amended, which reads as follows:

> "On or before March 1, 1940, the Board shall submit to the President and to Congress a comprehensive plan for the establishment of a permanent Federal policy for the amicable adjustment of all disputes between maritime employers and employees and for the stabilization of maritime labor relations. As far as may be, the Board shall seek to secure through its mediatory efforts agreement between maritime employers and employees upon the plan it is hereby required to submit."

The recommendations in this report are based upon: (1) experience of the Maritime Labor Board with the administration of Title X; (2) conferences with representatives of organizations of maritime employers and employees held by the Maritime Labor Board; and (3) studies and investigations made by the Maritime Labor Board, including an examination of the various legislative proposals submitted during the 75th Congress which eventuated in enactment of Title X.

It is significant that almost from its origin the mediatory services of the Maritime Labor Board have been used both by employers and employees. Between the date of its establishment on July 6, 1938, and October 1, 1939, more than 70 disputes were handled by the Board.

covering in excess of 110,000 workers. These cases involved questions pertaining to the making and maintaining of written agreements, to the renewal of agreements, and to stoppages of work resulting from lockouts and strikes. The experience of the Board has embraced practically all issues over which maritime employers and employees have been in conflict during recent years, and has brought the Board into close contact with the industry. The Board has thus gained a realistic appreciation of the day-to-day problems incident to collective bargaining which confront employers and workers in the maritime industry.

In compliance with Section 1010, which provides that the Board shall seek to secure through its mediatory efforts agreement between maritime employers and employees upon the plan it is hereby required to submit the Board has conferred with representatives of the major employers' and workers' organizations.

These were conferences arranged for the purpose of eliciting the views of the parties directly at interest in maritime labor disputes, with regard to the kind of plan which should be submitted to the Congress for the amicable adjustment of labor disputes. To facilitate discussion an agenda containing specific questions was prepared by the Board and mailed to representatives of employers and workers in advance of the scheduled meetings.

But such conferences did not indicate the possibility of an early agreement between maritime employers and employees upon a plan to be submitted by the Board, as required under Section 1010. Representatives of maritime employers and those of maritime employees have expressed widely divergent views with respect to the need of a special federal mediatory agency for the promotion of collective bargaining and the mediation of disputes in the maritime industry. Some employers opposed legislation such as is contained in Title X. Others expressed themselves to the effect that Title X should be continued indefinitely in order that the Maritime Labor Board might have further opportunity to study problems of labor relations in the industry. Still other employers considered that the time was not ripe for a decision as to whether Title X, or a similar law, should be continued subsequent to June 23, 1941.

The views expressed by the representatives of maritime labor were also widely divergent. There were those who held that Title X was entirely unnecessary. Others believed that a special federal mediatory agency for the maritime industry was desirable. Still others saw an advantage in a permanent Maritime Labor Board, so long as it was not vested with coercive powers.

This absence of agreement not only between maritime employers and their employees, but also between organized groups of employers on the one hand and organized groups of employees on the other, is a major reason for the Board's conclusion that for the immediate future the public interest requires a specialized federal agency for the mediation of disputes and the establishment of federal policy with respect to collective bargaining in the maritime industry.

The Board has assembled, studied, and analyzed available data bearing upon labor relations in the maritime industry. The studies included operation of collective agreements, the history of federal intervention in maritime labor relations, the effect of existing seamen's statutes upon collective bargaining, the experience of the National Labor Relations Board as it relates to the maritime industry, the structure of maritime labor unions, maritime labor disputes, and the machinery used in foreign countries for the adjustment of labor disputes in the maritime industry. In addition, the Board has analyzed the development of the Railway Labor Act.

In formulating its recommendations, the Board has taken account of the circumstances which focused the

attention of the Congress upon the problem of implementing maritime legislation with special controls to insure labor peace. The different points of view and the conflicts of opinion arising in connection with the various legislative proposals submitted during the 75th Congress have also received careful consideration.

The Board's experience with the administration of Title X leads to the conclusion that the present declared policy of the United States with respect to labor relations in water-borne commerce, as embodied in Section 1001 of Title X, should be continued. This section reads as follows:

> "It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of water-borne commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and the prompt and orderly settlement of all disputes concerning rates of pay, hours of employment, rules, or working conditions, including disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, hours of employment, rules, or working conditions."

The experience of the Board points clearly to the need of amending certain provisions of Title X in order to make it more effective as a means of encouraging the practice and procedure of collective bargaining in the maritime industry.

This report covers many aspects of labor relations in the maritime industry. With respect to some phases of the problem, however, the Board can only call attention to their importance. In this connection the Board desires to point out that, to a degree which has never been adequately appreciated, the confusion in labor relations in the maritime industry is a reflection and a consequence of the confusion in the laws affecting these relations and of the confusion in the administrative policies of the governmental agencies entrusted with the administration of these laws.

The recommendations of the Board fall into two main categories: (1) specific amendments to Title X regarding measures necessary to strengthen existing facilities for making and maintaining collective agreements, and for the amicable adjustment of disputes; and (2) a general recommendation intended to encourage the development of collective bargaining in the maritime industry by removing existing impediments to its growth.

The Board does not assume that its recommendations constitute a final, full-grown plan designed to inaugurate an era of perfect harmony between maritime employers and employees. In a democratic country, orderly and amicable employer-employee relationships in any industry

are predicated upon a gradual growth of mutual respect and understanding, which in the maritime industry are still in the formative stage.

The Board is fully aware of the immediate and imperative need for securing an uninterrupted flow of water-borne commerce, particularly because of the close connection between the merchant marine and the national defense. But the Board is also mindful of the fact that in seeking a basis for the development of an enduring and steadfast employer-employee relationship, primary emphasis must be placed upon normal conditions rather than upon those which might obtain during periods of national emergency.

The Board wishes to point out that there are today definite indications of the development of stable labor relations in the maritime industry. Among these indications is the recent two-year agreement entered into between the American Merchant Marine Institute and the National Maritime Union, covering seamen on the Atlantic and Gulf coasts, and also the increasing tendency on the part of maritime employers and employees on the Pacific Coast to settle their differences around the conference table and through the medium of long-term collective agreements.

The Board wishes to make it clear that in recommending the continuation of Title X and of a special governmental mediatory agency for the maritime industry, it does not take the position that such a specialized agency will always be needed. The Board does believe, however, that present unsettled labor conditions in the maritime industry make it desirable that there should be a specialized federal mediatory agency, with functions similar to those of the Maritime Labor Board. Such an agency will continue to be needed until such time as the maritime employers and employees have demonstrated their ability to protect their respective interests without jeopardizing the interest of the public through needless interruptions to the free flow of water-borne commerce, or until the parties themselves have been able to agree upon a plan for the stabilization of maritime labor relations which commands the support of the Congress.

SUMMARY OF PROPOSED AMENDMENTS TO TITLE X

The recommendations of the Maritime Labor Board for amending the several sections of Title X are summarized below. Following this summary, the proposed amendments and the reasons for the proposed amendments are set out seriatim.

While these recommendations embody proposals for amending Title X, the Board recognizes that the objectives sought through the suggested amendments may also be achieved by drafting a new bill which would incorporate the same proposals for making the provisions of Title X more effective in bringing about the amicable adjustment of labor disputes and the stabilization of labor relations in the maritime industry.

Section 1002.

1. The Maritime Labor Board, or its successor, should be authorized to consider and determine questions concerning representation of employees of maritime employers;

2. The navigation laws of the United States or any other laws relating to seamen should not be so construed as to abrogate the right of seamen to strike in domestic harbors;

3. The receipt of federal construction or operating subsidies should also be made conditional upon compliance with the provisions of Section 8 of the National Labor Relations Act.

Section 1003.

1. The jurisdiction of the Maritime Labor Board, or its successor, should be extended to personnel on all documented vessels upon navigable waters within the jurisdiction of the United States, except vessels covered by the Railway Labor Act;

2. The jurisdiction of the Maritime Labor Board, or its successor, should be extended to include employees engaged in ship repairing;

3. The jurisdiction of the Maritime Labor Board, or its successor, in matters relating to labor disputes in the maritime industry as defined by this section should be made exclusive;

4. The term "employee" should include the seagoing personnel on government-owned merchant vessels operated for the account of the Government by managing agents or corporations. The term "maritime employer" should include managing agents or corporations operating government-owned merchant vessels for the account of the Government.

Section 1004.

1. It should be made the duty of maritime employers and employees to exert every reasonable effort to make and maintain written agreements and to settle all disputes;

2. The Maritime Labor Board, or its successor, should be authorized and directed to establish adjustment boards at the request of or with the consent of maritime employers and employees.

Section 1005.

1. Maritime employers should also be obliged to file with the Maritime Labor Board, or its successor, copies of decisions of arbitrators or referees, within ten days after such decisions have been made;

2. Copies of all contracts, agreements, and decisions of arbitrators should be made available by the Maritime Labor Board, or its successor, to the

direct parties in maritime labor disputes, upon their request or upon the request of the duly authorized representatives of either of the direct parties when needed in connection with the adjustment of a dispute;

3. Copies of all contracts, agreements, and decisions of arbitrators should be made available to other federal agencies for official use;

4. A maritime employer who is not a party to a written collective agreement should be required to furnish an annual statement to the Maritime Labor Board, or its successor, showing: (1) the number of his employees in each of the different classes of employment; (2) the hours worked by each class of his employees; (3) the wages paid to each class of his employees; and (4) whether or not he has a written agreement or written memorandum of employment with his own employees. In cases where such memoranda exist, the employer should also furnish a copy of them to the Maritime Labor Board, or its successor, together with copies of any changes or modifications made in such agreement or memorandum. Copies of such changes or amendments should be furnished to the Board, or its successor, within thirty days after they have been made.

Section 1006.

1. The Maritime Labor Board, or its successor, should notify either the representatives of employees or the representatives of employers of the time and place of the conference only in cases when either party notifies the Board, or its successor, that it had served notice upon the other of its desire to confer.

Section 1007.

1. The Maritime Labor Board, or its successor, should be empowered to appoint paid umpires at the request of the direct parties at interest in a dispute;

2. The Maritime Labor Board, or its successor, should be authorized to pay the office rent and other overhead expenses of adjustment boards established by the Board, or its successor, at the request of or with the consent of maritime employers and employees.

Section 1009.

1. The Maritime Labor Board, or its successor, should be authorized to appoint neutral arbitrators.

Section 1010.

1. The Maritime Labor Board, or its successor, should be required to make an annual report to Congress upon its mediatory activities;

2. The Maritime Labor Board, or its successor, should continue to use its mediatory efforts to secure agreement between maritime employers and employees upon adequate methods for the stabilization of labor relations in the maritime industry.

Section 1012.

1. Section 1012 should be eliminated, or amended to provide for an extension of Title X beyond June 23, 1941.

Recommendation for the Revaluation of Seamen's Statutes.

1. The Congress should take appropriate action as soon as possible to inaugurate a dispassionate and impartial study and analysis of all existing laws affecting seamen in order that these laws may be brought into line with present-day conditions of water transportation and with the declared policy of the Congress of the United States regarding the encouragement of the practices and procedures of collective bargaining in the maritime industry.

REASONS FOR PROPOSED AMENDMENTS

The recommendations of the Board for amending the present provisions of Title X, together with the reasons for making these recommendations, are now set out in consecutive order.

Amendments to Section 1002

Section 1002 now reads:

> "The provisions of this title shall not in any manner affect or be construed to limit the provisions of the National Labor Relations Act, nor shall any of the unfair labor practices listed therein be considered a dispute for the purposes of this title. Questions concerning the representation of employees of a maritime employer shall be considered and determined by the National Labor Relations Board in accordance with the provisions of the National Labor Relations Act: Provided, however, That nothing in this title shall constitute a repeal or otherwise affect the enforcement of any of the navigation laws of the United States or any other laws relating to seamen."

It is recommended that:

1. The Maritime Labor Board, or its successor, should be authorized to consider and determine questions concerning representation of employees of maritime employers.

In making this recommendation no reflection whatever is intended upon the work of the National Labor Relations Board in the conduct of the elections it has held in the maritime industry. On the contrary, the studies of the Maritime Labor Board show that the National Labor

Relations Board has been most effective in peacefully settling questions of representation in the maritime industry. Between January 15, 1936, and July 15, 1939, the National Labor Relations Board conducted more than 300 elections (or equivalent "ascertainments") involving more than 54,000 maritime employees.

The Board's recommendation that this section should be amended so that questions concerning representation should be considered and determined by the Maritime Labor Board, or its successor, instead of by the National Labor Relations Board, is based upon two considerations.

First, the Maritime Labor Board, or its successor, would be in a better position to expedite the determination of questions of representation than the National Labor Relations Board.

In many cases, the conduct of these elections has been protracted because of the large number of representation disputes which are handled by the National Labor Relations Board in many industries, and because of the special difficulties involved in elections among seafaring men and longshoremen. These special difficulties arise out of the nature of the employment of seamen and longshoremen The former are usually at sea, signed on for short or long voyages, when elections are begun; so that the seamen

employed by the same company are seldom in the same port at the same time. Longshoremen often work for several employers during one week, or two or more successive weeks. Many longshoremen are casual workers employed on an hourly basis by several employers during the same day or the same week. Because these employment conditions tend to prolong elections involving the determination of questions of representation and because the National Labor Relations Board is preoccupied with numerous disputes concerning representation in other industries, the Board is of the opinion that it, or its successor, would be able to handle these questions for the maritime industry more expeditiously. Prompt handling of all disputes, including those relating to questions of representation, is essential in the interest of maintaining peaceful labor relations.

Second, the handling of disputes relating to questions of representation, by the Maritime Labor Board, or its successor, would strengthen its effectiveness as a mediatory agency.

At present the Maritime Labor Board has no jurisdiction in disputes involving questions of representation, not even in cases when such disputes threaten to interrupt the free flow of water-borne commerce. Since such disputes are referred to the National Labor Relations

Board, the Maritime Labor Board is frequently unaware of their existence. When the existence of such disputes comes to the attention of the Board, it is unable to act in order to prevent their development into work stoppages.

Jurisdictional disputes between maritime unions have, in the experience of the Maritime Labor Board, given rise to situations which resulted in stoppages of work. Often such disputes can best be resolved by an election to determine by whom the affected maritime employees wish to be represented. But, because the Maritime Labor Board is prevented by Section 1002 of Title X from handling disputes involving questions of representation, it is also prevented from dealing with jurisdictional disputes which could only be settled by determining the collective bargaining agencies. The Board, or its successor, would be in a much better position to function effectively in the interest of the continuous flow of water-borne commerce if it were given jurisdiction over labor disputes arising out of questions of representation.

2. The navigation laws of the United States or any other laws relating to seamen should not be so construed as to abrogate the right of seamen to strike in domestic harbors.

The language of Section 1002 pertaining to the National Labor Relations Act was obviously intended to protect seamen against unfair labor practices as they are defined in that act and to safeguard the right of seamen to organize and bargain collectively through their chosen representatives. But the provision of this section which reads, "That nothing in this title shall constitute a repeal or otherwise affect the enforcement of any of the navigation laws of the United States or any other laws relating to seamen," has cast some doubt upon the right of seamen to strike in domestic harbors when the vessel affected by the strike is safely moored to the dock. This doubt has arisen principally because of administration of the law relating to the creation of marine boards to investigate acts of incompetency or misconduct not committed in connection with a marine casualty or accident. This law reads in part as follows:

> "(b) The Secretary of Commerce shall establish rules and regulations for the investigation of marine casualties and accidents not involving loss of life, any act in violation of any of the provisions of this title or of any of the regulations issued thereunder, and all cases of acts of incompetency or misconduct committed by any licensed officer or holder of a certificate of service while acting under the authority of his license or certificate of service, whether or not any of such acts are committed in connection with any marine casualty or accident...." 1/

1/ R.S. 4450 U.S.C. 239

Investigations of acts of incompetency and misconduct not committed in connection with marine casualties and accidents are made by boards, known as "C" Boards, which are composed of representatives of the Bureau of Marine Inspection and Navigation, and appointed by the Director of that Bureau.

The law does not define "acts of incompetency or misconduct," but a survey of the charges preferred by the Bureau of Marine Inspection and Navigation in a number of "C" Board cases seems to indicate that the Bureau construes the term as encompassing any behavior legally reprehensible under the navigation laws. This connotation brings within the purview of the "C" Boards actions ranging from drunkenness and fighting among crew members to refusal in violation of articles, to obey a command issued by the master during a strike in a safe harbor.

The significance of these investigations for maritime labor arises from the fact that actions characterized as misconduct may occur in connection with strikes or other union activity directed toward establishing or enforcing the collective bargaining rights guaranteed to labor.

The articles which all crew members in the foreign and intercoastal trade must sign provide, in part: "... the said crew agree to conduct themselves in an orderly, faithful, honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the said Master, ..." This provision can be interpreted to make any refusal to obey a command while under articles an act of misconduct, even when such refusal takes place in connection with a lawful strike in a domestic harbor when the vessel is safely moored.

The Board is of the opinion that none of our navigation laws or other laws affecting seamen should be so construed as to make possible the suspension or revocation of certificates or licenses for engaging in lawful strikes.

It is the declared policy of the United States, as expressed in Section 1001 of Title X, "... to eliminate the causes of certain substantial obstructions to the free flow of water-borne commerce and to mitigate and eliminate these obstructions when they have occurred..." but it is not a part of this policy to prohibit lawful strikes by seafaring men. Thus, the purpose of Title X is to eliminate, as nearly as is possible, the causes which may lead to strikes in the maritime industry, but not to

penalize seafaring men for exercising their right to engage in lawful strikes when in their judgment such strikes are unavoidable as a means of protecting their economic interests. The recommendation of the Board that certificates and licenses of seafaring men should not be revoked for engaging in lawful strikes is fully in keeping with the declared policy of the United States, which seeks to establish peaceful labor relations in the maritime industry by means of advancing the principles and practices of collective bargaining, rather than by imposing legal restrictions upon the rights of maritime employees which are not applicable to other workers.

3. The receipt of federal construction or operating subsidies should also be made conditional upon compliance with the provisions of Section 8 of the National Labor Relations Act.

The amendments to Section 1002, recommended by the Board, would leave maritime employees, not covered by the Railway Labor Act, under the jurisdiction of the National Labor Relations Act with respect to the unfair labor practices listed in that act.

It is the judgment of the Board that the observance of the provisions of the National Labor Relations Act with respect to unfair labor practices should be made a condition for receiving federal subsidies. To achieve this end Section 1002 should be further amended to provide that

persons or corporations, found guilty by a court of competent jurisdiction of any of the unfair labor practices prohibited by Section 8 of the National Labor Relations Act, should become ineligible to receive, or to continue to receive, federal construction or operating subsidies for a specified period of time.

This recommendation is intended as a special inducement to those who are the direct beneficiaries of governmental aid to obey the provisions of the National Labor Relations Act. In the interests of orderly labor relations in the maritime industry, the Board believes it is imperative to stop effectively any attempt by unfair maritime employers to engage in practices inimical to the rights of maritime employees. Since many maritime employers are receiving governmental subsidies and others are likely to apply for such subsidies, it would be an added inducement to them to abide by the provisions of law as regards the fundamental rights of labor, if the law made maritime employers who are guilty of unfair labor practices ineligible for subsidies for a specified period. This additional penalty would do no harm to fair employers and could only be objectionable to those who have not as yet fully recognized the rights of their employees to self-organization.

Amendments to Section 1003

Section 1003 now reads:

"When used in this title--

"(a) The term 'water-borne commerce' means commerce by water between any State, the District of Columbia, or any Territory or possession of the United States and any foreign country, or commerce by water on the high seas or the Great Lakes between any State, the District of Columbia, or any Territory or possession of the United States and any other State, Territory, or possession of the United States.

"(b) The term 'maritime employer' means any person not included in the term 'carrier' in title I of the Railway Labor Act, approved May 20, 1926, as amended, who (1) is engaged in the transportation by water of passengers or property in water-borne commerce; (2) is engaged in towboat, barge, or lighterage service in connection with the transportation of passengers or property in water-borne commerce; (3) operates or manages or controls the operation or management of any wharf, pier, dock, or water space, for the accomodation of vessels engaged in the transportation of passengers or property in water-borne commerce; (4) is engaged in the business of loading or unloading vessels engaged in the transportation of passengers or property in water-borne commerce; or (5) operates any equipment or facility connected with the services set forth in clauses (1), (2), (3), and (4) hereof, which is necessary for the continuity of flow of passengers and property in such water-borne commerce.

"(c) The term 'employee' means any person who performs any work as an employee or subordinate official of any maritime employer, subject to its authority to supervise and direct the manner of rendition of service, when the duties assigned to or services rendered by such person directly or indirectly in any manner affect, relate to, or are concerned with the transportation of passengers or property in water-borne commerce, or the furnishing of equipment or facilities therefor, or services in

> connection therewith, as set forth in clauses (2), (3), (4), and (5) of subsection (b) of this section; it being intended that this title should apply not only to those persons whose work may be exclusively in connection with the movement by water of passengers and property in the interstate and foreign commerce of the United States but also to those persons whose work may have such a close relation to the movement of such interstate and foreign commerce that the provisions of this title are essential and appropriate to secure the freedom of that commerce from interference and interruption. The provisions of this title shall not apply to the master or members of the crew of any vessel not documented, registered, licensed, or enrolled under the laws of the United States."

It is recommended that:

1. The jurisdiction of the Maritime Labor Board, or its successor, should be extended to personnel on all documented vessels upon navigable waters within the jurisdiction of the United States, except vessels covered by the Railway Labor Act.

One of the Board's recommendations with regard to this section is that it should be so amended as to include clearly within the Board's jurisdiction all persons employed upon vessels and craft engaged in water-borne commerce upon all navigable waters within the jurisdiction of the United States, except the personnel of such vessels as come under the jurisdiction of the Railway Labor Act.

The Board's reason for this recommendation is that it believes the effectiveness of the Board, or its successor, would be enhanced if it were in a position to handle all labor disputes in which maritime employers and employees are involved, irrespective of the kind of

water-borne trade involved in the dispute. The jurisdiction of the Maritime Labor Board, or of its successor, should be coextensive with that of the maritime labor unions where such jurisdiction covers employees on vessels upon navigable waters within the jurisdiction of the United States. The jurisdictions of these unions are not confined to vessels on the high seas and on the Great Lakes, but extend to inland waterways and to harbor craft. Thus, during a strike of employees on the inland waterways in 1939, the services of the Board were requested by the Inlandboatmen's Union and by the National Marine Engineers' Beneficial Association. Because it was not clear whether Section 1003 gives the Board jurisdiction in cases of strikes on inland waterways, the Board was unable to respond. On the other hand, in a strike of inland boatmen on Puget Sound in 1939, the Board did offer its services and was helpful in terminating the strike by securing the consent of the parties to arbitration. But in all such cases, the mediatory efforts of the Board have been hampered by the uncertainty as to its jurisdiction. Strikes of Alaska fishermen and Alaska cannery hands in the salmon industry in 1938 and 1939 have had deleterious effects upon water-borne commerce between the Pacific Northwest and Alaska. While the Board

may now have jurisdiction in disputes affecting these workers, Section 1003 should be clarified to make such jurisdiction clear.

Strikes of ferryboatmen, tugboatmen, and of employees on towboats seriously interfere with water-borne commerce. Since Section 1003 clearly gives the Board jurisdiction over mercantile commerce on the Great Lakes and on the high seas, its jurisdiction should also extend to other water-borne commerce not covered by the Railway Labor Act which is closely related to off-shore and coastwise commerce.

2. The jurisdiction of the Maritime Labor Board, or its successor, should be extended to include employees engaged in ship repairing.

"Ship repairing," according to the United States Maritime Commission, "is quite as essential to the maintenance of a merchant marine as the building of the ships. During the lifetime of a ship an average expenditure equal to at least three-fourths of its original cost is required for upkeep, surveys, modernization, and repair." 1/ Delays to ship repairing, as distinguished from delays to shipbuilding, directly interfere with water-borne commerce in the same manner as do strikes of seafaring personnel.

1/ United States Maritime Commission: Statement Prepared By The United States Maritime Commission At The Request Of The Chairman Of The Senate Commerce Committee on H.J.Res. 306 (Neutrality Bill), p. 16

Subsection (b) of Section 1003 might perhaps be construed to include employees in ship repair yards, but such construction would be subject to grave doubt because of the present wording of this subsection and of the entire section discussed.

3. The jurisdiction of the Maritime Labor Board, or its successor, in matters relating to labor disputes in the maritime industry as defined by this section should be made exclusive.

At the present time, the Conciliation Service of the United States Department of Labor seems to have the same jurisdiction in maritime labor matters as does the Maritime Labor Board. This makes it difficult to allocate responsibility for mediation work in this industry and often hampers effective administration of Title X. A mediator of the Maritime Labor Board engaged in settling a labor dispute affecting water-borne commerce is never sure when a representative of the Department of Labor will also step in, either as an "observer" or as an active mediator or conciliator. The fact that two governmental agencies have jurisdiction in the same industry in fulfilling the same function is confusing to employers, employees, and the public. Settling labor disputes in any industry is often a difficult and delicate task. It should not be made more difficult by jurisdictional questions between two or more governmental agencies.

The Board does not suggest that the Conciliation Service has not been cooperative in this respect, but believes that such cooperation would be more effective if the Conciliation Service would enter maritime labor disputes only upon request of the Maritime Labor Board, or its successor, and in cooperation with the Board.

4. The term "employee" should include the seagoing personnel on government-owned merchant vessels operated for the account of the Government by managing agents or corporations. The term "maritime employer" should include managing agents or corporations operating government-owned merchant vessels for the account of the Government.

The purpose of this recommendation is to insure the right of collective bargaining to the seagoing personnel on government-owned merchant vessels which are not directly operated by a governmental agency, but which are operated for such agency by a managing agent or corporation.

It is the judgment of the Board that if this amendment were adopted, it would materially assist in the stabilization of labor relations in the maritime industry, and would in no way infringe upon the sovereignty of the Federal Government.

Owing to the policy adopted by the United States Maritime Commission by which employees on government-owned merchant vessels, operated by managing agents or corporations, are considered <u>government employees</u>, such employees have been

denied the privileges of collective bargaining granted to other maritime employees under the National Labor Relations Act. This has engendered among the maritime labor unions an attitude of antagonism towards the United States Maritime Commission--an attitude growing out of fear on the part of the labor unions that the Commission is antagonistic to the legitimate aims and aspirations of maritime labor. The refusal of the United States Maritime Commission to allow employees on merchant vessels in question to vote for representatives for the purpose of collective bargaining, and the refusal of the Commission to hire crews on such vessels from union hiring halls, as is done by other maritime employers, has been held by the maritime labor unions to be an attempt by the Commission to break down collective bargaining aboard merchant vessels in general and to do away with union hiring halls, which they regard as essential to their existence, and which have been generally accepted by maritime employers.

The Maritime Labor Board is of the opinion that employees on government-owned merchant vessels, when they are operated by managing agents or corporations, should have the same rights of collective bargaining as do employees on privately owned merchant vessels, whether subsidized or not. If this view were taken by the Congress, it could

designate the managing agents or corporations operating government-owned merchant vessels as maritime employers for the purpose of Title X, and employees on such vessels as maritime employees for the purpose of Title X.

The present policy of the Federal Government is that the American merchant marine, whenever practicable, should be privately owned and operated. With respect to government-owned merchant vessels, the policy is that such vessels, whenever practicable and as soon as possible, should be sold or chartered to private individuals and operated with the aid of subsidies, where such subsidies are necessary in the interest of maintaining the American merchant marine.

In cases where government-owned merchant vessels cannot be sold or chartered, they may be operated by managing agents or corporations for the account of the Government, until such time as they can be advantageously disposed of or chartered to American citizens.

In the light of such policy, the employees on government-owned merchant vessels may be government employees today and private employees tomorrow. Granting that employees on government-owned merchant vessels, privately operated for the account of the Government, <u>are</u> government employees, it must be conceded that they are employees in

a special category in that, for example, they have an entirely different status from, say Post Office employees, who are permanent government employees.

This distinction is important for the reason that the frequent transfer of employees from a governmental status to a private status recurrently brings into question the status of the collective bargaining rights of the seafaring personnel and the force of existing collective bargaining agreements. Thus, when a government-owned merchant vessel is chartered to a private corporation, under a subsidy arrangement, the employees on such vessels may enter into a collective agreement with their employer. When such a vessel reverts to the United States Maritime Commission, to be operated for the account of the Commission by a managing agent or corporation, the employees on such vessel lose their right to bargain collectively and to work under a collective agreement which they had enjoyed immediately preceding the transfer of the vessel.

The question regarding the status of employment on government-owned merchant vessels operated for the account of the Commission by managing agents or corporations has given rise to much harmful controversy and has resulted in delay in the operation of such vessels. The adoption of the Board's recommendation for including employees on

government-owned merchant vessels, operated by managing agents or corporations, within the term "employees" under Section 1003 of Title X, would do away with this needless controversy and would be conducive to better and more stable labor relations in the maritime industry.

Amendments to Section 1004

Section 1004 now reads:

> "It shall be the duty of the Board to encourage all maritime employers, their officers and agents, and their employees or the duly selected representatives of such employees to exert every reasonable effort—
>
> "(1) to make and maintain written agreements concerning rates of pay, hours of employment, rules, and working conditions, which agreements shall provide, by means of adjustment boards or port committees, for the final adjustment of disputes growing out of grievances or the application or interpretation of the terms of such agreements;
>
> "(2) to settle all disputes, whether arising out of the interpretation or application of such agreements or otherwise, in order to avoid any interruptions to transportation of passengers or property in water-borne commerce."

It is recommended that:

1. It should be made the duty of maritime employers and employees to exert every reasonable effort to make and maintain written agreements and to settle all disputes.

At the present time, Section 1004 makes it the duty of the Board to encourage maritime employers and employees to make and maintain written agreements and to settle all disputes. The Board's recommendation is that

this section should be amended to make it also the duty of maritime employers and employees to exert every reasonable effort to make and maintain written agreements and to settle all disputes, whether arising out of the interpretation or application of such agreements or otherwise, in order to avoid any interruptions to transportation of passengers or property in water-borne commerce. Such an amendment would strengthen the effectiveness of the Board, or its successor, in encouraging maritime employers and employees to bargain collectively and would tend to avert lockouts and strikes.

It should be noted, in this connection, that under the Railway Labor Act, it is "....the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes, whether arising out of the application of such agreements or otherwise, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof."

2. The Maritime Labor Board, or its successor, should be authorized and directed to establish adjustment boards at the request of or with the consent of maritime employers and employees.

The Board now has the duty of encouraging maritime employers and employees to make and maintain agreements,

which shall provide, by means of adjustment boards or port committees, for the final settlement of all disputes.

While bipartisan adjustment boards or port labor relations committees are provided for in most collective agreements in the maritime industry, these have often proved ineffective in preventing stoppages of work and in bringing about stable labor relations.

It should be made the continuous duty of the Maritime Labor Board, or its successor, to study the functioning of the existing adjustment boards or port labor relations committees, with a view to suggesting to maritime employers and employees methods for their improvement. In cases where existing adjustment boards can be improved through their reorganization and by the establishment of reorganized or additional adjustment boards, the Maritime Labor Board, or its successor, should recommend to the maritime employers and employees the establishment of such reorganized or additional adjustment boards.

When established, through the assistance of the Maritime Labor Board, or its successor, with the consent or at the request of the direct parties at interest, such bodies should be provided by the Board with office space, permanent secretaries, and with clerical assistance, as is done by the National Mediation Board under the Railway Labor Act. If

this were done, it would greatly facilitate the promotion of the orderly processes of collective bargaining. The Board believes that the establishment of adjustment boards with the aid of the Federal Government would act as a stabilizing influence in the making and maintaining of written collective agreements and would aid in the development of procedures for the orderly settlement of disputes by direct negotiations and by voluntary arbitration.

Amendments to Section 1005

Section 1005 now reads:

> "Within thirty days after the date of enactment of this title, every maritime employer shall file with the Maritime Labor Board a copy of each contract with any group of its employees in effect on such date, covering rates of pay, hours of employment, rules, and working conditions. When any new contract is executed or any change is made in an existing contract with any group of its employees covering rates of pay, hours of employment, rules, or working conditions, any maritime employer shall file a copy of such contract, or a statement setting forth such change, with the Maritime Labor Board within ten days after such new contract has been executed, or such change has been made. Any maritime employer who willfully fails to file any copy of a contract or statement as required by this section shall be subject to a fine of not more than $100 for each offense."

It is recommended that:

1. Maritime employers should also be obliged to file with the Maritime Labor Board, or its successor, copies of decisions of arbitrators or referees, within ten days after such decisions have been made.

Section 1005 does not now require maritime employers to file with the Maritime Labor Board copies of the decisions of arbitrators made in the settlement of maritime labor disputes. Such decisions, interpreting the contract, supplement the contract and are made a part of it. Since employers are required to file changes made in the contract with the Board, they should also be required to file arbitrators' decisions relating to the contracts. A knowledge of the full provisions and the meanings of the contracts is essential to enable mediators to handle maritime labor disputes effectively.

There are substantial differences in the provisions of the contracts affecting seamen and those affecting longshoremen on the Atlantic, the Gulf, and the Pacific coasts and on the Great Lakes. To perform their work intelligently, the mediators of the Board should be fully aware of these differences and of all provisions in the maritime agreements in connection with which they are called upon to act as mediators. These agreements are numerous and complicated, and require continuous study and analysis. The Board believes that it, or its successor, should have on its staff several experienced investigators, well trained in labor problems, to study and analyze these agreements, with regard to comparable provisions in all

maritime collective agreements. The mediator handling a case in the field has no means of knowing whether the matter in a dispute he is concerned with has already been settled in some other agreement, and what the terms were of such settlement. The Board should be able to furnish to its mediators all facts concerning such provisions in contracts between maritime employers and employees. Possessed of the knowledge of how the same question has been handled in other ports, the mediator is in a better position to mediate the case before him. Similarly, the payment of cash or the giving of time off for overtime worked may be the question in dispute, say, in the port of New Orleans. The mediator handling this dispute should know what are the contractual provisions pertaining to the payment of overtime in other ports, such as on the Pacific coast, or in the port of New York, or in Baltimore.

Divergent provisions in the seamen's contracts or in longshoremen's contracts in different ports, pertaining to the same working conditions, give rise to disputes. A knowledge of these differences may lead to such uniformity, where uniformity is logical and desirable, as would avert unnecessary bickering and wrangling.

Disputes in connection with the meaning of a contract cannot be avoided, but they can be minimized by proper handling. While a speedy settlement of a dispute is always desirable, the effectiveness of mediation should not be gauged merely by the rapidity with which a dispute is settled. Every effort should be exerted by a federal mediation agency, especially by one established for a particular industry, to seek to prevent the recurrence of disputes over the same questions.

2. Copies of all contracts, agreements, and decisions of arbitrators should be made available by the Maritime Labor Board, or its successor, to the direct parties in maritime labor disputes, upon their request or upon the request of the duly authorized representatives of either of the direct parties, when needed in connection with the adjustment of a dispute.

Section 1005 is not clear as to the duty of the Board in cases where either of the direct parties to a dispute, or both, request of the Board the use of copies of any of the agreements filed with it under penalty. Since there is a penalty attached for willful failure to file the contracts, the question has arisen whether or not the Board is authorized to make them available to one of the parties in a dispute, or to both parties, when requested to do so. The law should be clarified on this point.

3. Copies of all contracts, agreements, and decisions of arbitrators should be made available to other federal agencies for official use.

Other governmental agencies have had occasion to ask the Board to give them access to its files containing the maritime labor agreements, but the Board was not certain as to its authority in this matter. The Board recommends that federal agencies wishing to have access to these files should be given such access in connection with the conduct of their official business.

4. A maritime employer who is not a party to a written collective agreement should be required to furnish an annual statement to the Maritime Labor Board, or its successor, showing: (1) the number of his employees in each of the different classes of employment; (2) the hours worked by each class of his employees; (3) the wages paid to each class of his employees; and (4) whether or not he has a written agreement or written memorandum of employment with his own employees. In cases where such memoranda exist, the employer should also furnish a copy of them to the Board, or its successor, together with copies of any changes or modifications made in such agreement or memorandum. Copies of such changes or amendments should be furnished to the Board, or its successor, within thirty days after they have been made.

While Section 1005 makes it obligatory upon maritime employers to file with the Maritime Labor Board copies of the collective agreements they have entered into with any group of their employees, maritime employers having no collective agreements are under no obligation to file any statements with the Board regarding the conditions under which their workers are employed.

There are still many employers in the maritime industry who do not bargain collectively with their employees. How many of these there are the Board does not know, as they are not required to advise the Board of their labor relations policies and practices. Most petroleum companies and the bulk carriers of the Great Lakes belong to this class of employer. Since maritime employers who enter into collective agreements with their employees are compelled to file copies of these agreements with the Board, those who are not parties to collective agreements should also be obliged to file annual statements with the Board, or its successor. The first annual statements should be filed with the Board, or its successor, within 30 days after the enactment of this amendment, and subsequent annual statements should be filed on or before January 31st of each calendar year. These statements should show for each maritime employer: (1) the number of his employees, in the different classes of employment; (2) the hours worked by each class of his employees; (3) the wages paid to each class of employees; and (4) whether or not he has a written agreement with his employees or a written memorandum of employment in which the conditions of employment are specified. Where such memoranda exist, the employers should also furnish them to the Maritime Labor Board, or its successor, as a

part of the annual statement. When changes or modifications are made in such memoranda or agreements, they should be furnished to the Board within 30 days after they have been made.

Since it is the declared policy of the Congress to promote collective bargaining in the maritime industry as a means of mitigating or eliminating obstructions to the free flow of water-borne commerce, the Board, or its successor, should have complete knowledge of all maritime employers who do not engage in collective bargaining. With this information the Board, or its successor, would be in a better position to encourage maritime employers and employees to make and maintain written collective agreements.

Amendments to Section 1006

Section 1006 now reads:

> "All matters relating to the making and maintaining of agreements, and all disputes, between a maritime employer or employers and its or their employees shall be considered and, if possible, adjusted with all expedition, in conference between representatives designated and authorized by the maritime employer or employers and by its or their employees, respectively. It shall be the duty of the designated representatives of maritime employers, within five days after the receipt of notice of a desire on the part of either party to confer in regard to such matters and disputes, to specify a time and place at which such conference shall be held, and the Board shall notify the representatives of the employees thereof. The place so specified

> shall be reasonably accessible to both parties; and the time so specified shall allow the designated conferees reasonable opportunity to reach such place of conference, but shall not exceed ten days from the receipt of such notice. Nothing in this title shall be construed to supersede the provisions of any agreement as to conferences in effect between the parties."

It is recommended that:

1. The Maritime Labor Board, or its successor, should notify either the representatives of employees or the representatives of employers of the time and place of the conference only in cases when either party notifies the Board, or its successor, that it had served notice upon the other of its desire to confer.

Section 1006 requires the Board to notify the representatives of the employees of the time and the place where the conference is to be held, but provides no means by which the Board can learn that a notice of a desire to confer has been received by the maritime employers, and when and where the conference is to be held. For this reason, the Board recommends that this section should be amended to provide that the Board shall notify the representatives of the employees only in cases when the representatives of the employees notify the Board that they had sent to the employers a notice of a desire to confer. The Board, or its successor, would then be in a position to put itself into immediate communication with the employer to find out the time and place at which the conference is to be held.

Amendments to Section 1007

Section 1007 now reads:

"(a) There is hereby established as an independent agency in the executive branch of the Government a board to be known as the 'Maritime Labor Board' (hereinafter referred to as the 'Board') to be composed of three members appointed by the President, by and with the advice and consent of the Senate. The President shall name one of the members of the Board as Chairman. The terms of office of the members of the Board shall extend to the date of expiration of this title. Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board. Two of the members in office shall constitute a quorum for the transaction of the business of the Board. Each member of the Board shall receive a salary at the rate of $10,000 per annum, together with necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, subject to the provisions of law applicable thereto, while away from the principal office of the Board on business required by this title. No person in the employment of, or who is pecuniarily or otherwise interested in, any organization of maritime employees or any maritime employer shall enter upon the duties of, or continue to be, a member of the Board. A member of the Board may be removed by the President for inefficiency, neglect of duty, malfeasance in office, or ineligibility, but for no other cause.

"(b) The Board shall maintain its principal office in the District of Columbia, but it may meet at any other place whenever it deems it necessary to do so. The Board is hereby authorized to adopt all necessary rules and regulations to carry out the powers, duties, and functions vested in it by this title. The Board shall have a seal which shall be judicially noticed.

"(c) The Board may (1) appoint such experts and assistants to act in a confidential capacity and, subject to the provisions of the civil-service laws, appoint such other officers and employees as are essential to the effective transaction of the work of the Board; (2) in accordance with the Classification Act of 1923, as amended, fix the salaries of such experts, assistants, officers, and employees; and (3) make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding, and including expenditures for salaries and compensation, necessary traveling expenses and expenses actually incurred for subsistence, and other necessary expenses of the Board) as may be necessary for the execution of the functions vested in the Board, and as may be provided for by the Congress from time to time. All expenditures of the Board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman or by any employee of the Board designated by the chairman for that purpose.

"(d) The Board is hereby authorized by its order to assign, or refer, any portion of its work, business, or functions to an individual member of the Board, or an employee or employees of the Board, to be designated by such order, for action thereon; and by its order at any time to amend, modify, supplement, or rescind any such assignment or reference. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the Board. In conformity with and subject to the order or orders of the Board in the premises, any such individual member of the Board or employee designated shall have power and authority to act as to any of said work, business, or functions so assigned or referred to him for action by the Board."

It is recommended that:

1. The Maritime Board, or its successor, should be empowered to appoint paid umpires at the request of the direct parties at interest in a dispute.

It is recommended that the Board, or its successor, should be authorized to appoint, without regard to the civil-service laws, umpires to whom deadlocked disputes would be referred by adjustment boards. Such umpires should be appointed by the Board only upon the request of the adjustment board, or of any member thereof, or of the parties, or of either party to the deadlocked dispute, and only for the specific purpose of deciding the deadlocked cases submitted to them.

The Board, or its successor, should be authorized to compensate such umpires and to pay their necessary traveling expenses, together with such other expenses as, in the judgment of the Board, have been properly incurred by them in hearing, investigating, and deciding the cases submitted to them.

Maritime labor unions have often been reluctant to resort to arbitration in cases of deadlocked disputes because of the cost of arbitration. This, at least, has been one reason which they have advanced for their reluctance to submit deadlocked cases to arbitration. Moreover, the Board believes that since it is to the interest of the public to maintain stable industrial relations in the maritime industry by means of adjustment boards and arbitration, the public should pay some of the cost of maintaining adjustment boards and the cost of umpiring deadlocked disputes.

2. The Maritime Labor Board, or its successor, should be authorized to pay the office rent and other overhead expenses of adjustment boards established by the Board, or its successor, at the request of or with the consent of maritime employers and employees.

In order to encourage the establishment of adjustment boards for the orderly settlement of labor disputes in the maritime industry, the Board believes it to be desirable that it, or its successor, be empowered to pay the office rent of adjustment boards, where free office space cannot be secured in a government building, as well as to pay other overhead expenses incurred in the operation of such adjustment boards. These expenses should include, in addition to rent, telephone and telegraph service, supplies, and other expenses incident to the maintenance of an office.

The salaries and expenses of the direct representatives of organizations of maritime employers and employees on the adjustment boards should be paid by the respective organizations, but the secretaries of such boards and the clerical staff, when appointed by the Board, should be compensated by the Board, subject to the provisions of the civil-service laws.

Since subsection (c) of Section 1007 now authorizes the Board to appoint "such other officers and employees as are essential to the effective transaction

of the work of the Board," it, or its successor, would have authority to appoint secretaries of adjustment boards as well as clerical assistants to the adjustment boards. But without specific authorization so to do, the Board, or its successor, would be unable to pay the office rent and the overhead expenses of the adjustment boards.

Amendments to Section 1009

Section 1009 now reads:

> "If the Board should be unable through mediation to bring the parties to a dispute to agreement in whole or in part, it shall, as its last required action, use its best efforts to secure the assent of both parties to arbitration of the matter or matters in dispute."

It is recommended that:

1. The Maritime Labor Board, or its successor, should be authorized to appoint neutral arbitrators.

While Section 1009 makes it the duty of the Board to use its best efforts to secure the assent of both parties to arbitration as its last required action, it does not provide for the appointment of boards of arbitration and does not authorize the Board to appoint neutral members of boards of arbitration.

This section should be amended to provide that whenever any controversy between maritime employers and employees is not settled by them in conference, through adjustment boards or port committees, or through mediation;

such controversy may, by agreement of the parties to such controversy, be submitted to the arbitration of a board of three (or, if the parties to the controversy so stipulate, of six) persons, but that the failure or refusal of either party to submit a controversy to arbitration should not be construed as a violation of any legal obligation imposed upon such parties by law.

The board of arbitration should be chosen in the following manner:

First, in case of a board of three, the maritime employer or employers and the representatives of the employees, parties respectively to the agreement to arbitrate, should each name one arbitrator; the two arbitrators thus chosen should select a third arbitrator. If the arbitrators chosen by the parties should fail to name the third arbitrator within five days after their first meeting, such third arbitrator should be named by the Maritime Labor Board, or its successor.

Second, in case of a board of six, the maritime employer or employers and the representatives of the employees, parties respectively to the agreement to arbitrate should each name two arbitrators; the four arbitrators thus chosen should, by a majority vote, select the two remaining arbitrators. If the arbitrators

chosen by the parties should fail to name the fifth and sixth arbitrators within five days after their first meeting, the said arbitrators should be named by the Maritime Labor Board, or its successor.

Each member of any board of arbitration created under the provisions of this title named by either party to the arbitration board should be compensated by the party naming him. The arbitrator selected by the arbitrators or named by the Maritime Labor Board, or its successor, should receive from the Maritime Labor Board, or its successor, such compensation as the Board, or its successor, may fix, together with necessary traveling expenses and expenses actually incurred for subsistence, while serving as an arbitrator.

To make the work of the board of arbitration more effective, it should be authorized, subject to the approval of the Maritime Labor Board, or its successor, to employ and fix the compensation of such assistants as it may deem necessary in carrying on the arbitration proceedings. The compensation of such employees, together with their necessary traveling expenses and expenses actually incurred for subsistence while so employed, and the necessary expenses of the boards of arbitration, should be paid by the Maritime Labor Board, or its successor.

Amendments to Section 1010

Section 1010 now reads:

> "On or before March 1, 1940, the Board shall submit to the President and to Congress a comprehensive plan for the establishment of a permanent Federal policy for the amicable adjustment of all disputes between maritime employers and employees and for the stabilization of maritime labor relations. As far as may be, the Board shall seek to secure through its mediatory efforts agreement between maritime employers and employees upon the plan it is hereby required to submit."

It is recommended that:

1. The Maritime Labor Board, or its successor, should be required to make an annual report to Congress upon its mediatory activities.

2. The Maritime Labor Board, or its successor, should continue to use its mediatory efforts to secure agreement between maritime employers and employees upon adequate methods for the stabilization of labor relations in the maritime industry.

In the judgment of the Board, the present recommendations constitute the next step in the development of the "comprehensive plan" contemplated by the Congress under Section 1010.

As pointed out in the Introduction, the Board found no indication of the possibility of agreement at this time between maritime employers and employees upon any legislative program for a federal policy for the adjustment of labor disputes and the stabilization of labor relations in the maritime industry. Although the spirit of mutuality needed to bring about such agreement is at

present lacking, there are evidences of the growth of cooperation between maritime employers and employees which may in time generate the mutual confidence and trust needed to bring about agreement between them.

Experience may demonstrate the need for further amendments to Title X or for additional legislation in order that the roots of the orderly procedures of collective bargaining may be more deeply embedded in the day-to-day relationship between maritime employers and employees. The time may well come when the direct parties to the collective agreements shall have learned to settle their disputes amicably, without recourse to needless interruptions to the free flow of water-borne commerce and without the need of a specialized federal mediatory agency.

In the meantime the Board recommends that Section 1010 should be amended to direct it, or its successor, to continue mediatory efforts in order to bring about agreement between maritime employers and employees with regard to future legislation pertaining to the stabilization of labor relations in the industry. These mediatory efforts should be also used with a view to inducing maritime employers and employees to adopt such sound collective bargaining methods as may best insure the uninterrupted flow of water-borne commerce.

It is further recommended that Section 1010 be amended to require the Board, or its successor, to make an annual report to the Congress upon its mediatory activities and upon any federal legislation which, in its judgment, will best serve the policy of the United States as expressed in Section 1001 of Title X.

Amendments to Section 1012

Section 1012 now reads:

> "This title shall expire at the end of three years from the date of its enactment."

It is recommended that:

1. Section 1012 should be eliminated, or amended to provide for an extension of Title X beyond June 23, 1941.

The Board's mediatory experience and its studies and investigations confirm the wisdom of the Congress in establishing a specialized agency for the adjustment of disputes and the stabilization of labor relations in the maritime industry. The realization of the objectives of the policy of the United States as declared in Section 1001 of Title X, requires, in the judgment of the Board, the continuation of a specialized governmental agency to act as the exponent of the public interest at least until such time as experience has fully demonstrated the ability of maritime employers and employees to insure the continuous

flow of water-borne commerce through the systematic application of the practices and procedures of collective bargaining.

Recommendation for the Revaluation of Seamen's Statutes

The proposed amendments to Title X are considered by the Board to constitute the next necessary step toward a comprehensive plan for the establishment of a permanent federal policy for the amicable adjustment of labor disputes in the maritime industry.

In addition to making these amendments immediately effective, there is need for a complete revaluation of our navigation laws and of other laws affecting seamen in the light of the expressed policy of the Congress of the United States to promote collective bargaining in the maritime industry as a means of ensuring the uninterrupted flow of water-borne commerce. The studies and investigations undertaken by the Board with regard to the impact of laws pertaining to seamen upon collective bargaining problems have brought into relief a series of pertinent questions which have led the Board to believe that at least some of these laws may need revision with a view to bringing them in line with modern conditions of water transportation and with modern concepts of employer-employee relationships. Among these questions are the following:

First, in what way does the requirement that seafaring men sign shipping articles conflict with the collective agreements which the seafaring men enter into with the shipowners?

Second, should the contents of shipping articles be revised to conform with modern conditions of water transportation, or should the requirement for signing shipping articles be entirely done away with?

Third, when does concerted economic action on the part of merchant seamen constitute a legal right and when can such action be construed as mutiny?

Fourth, is a command of a master of a merchant vessel "lawful" when such command infringes upon the rights of seamen collectively to refuse to perform work in order to enforce a lawful economic demand?

Fifth, should the duties of Shipping Commissioners, as defined in the law of 1872, be revised to meet changed conditions which have resulted from the establishment of collective bargaining agreements between maritime employers and employees?

Sixth, is there still need for the maintenance of registers of seamen by Shipping Commissioners?

Except for its recommendation as regards the revocation or suspension of certificates or licenses of seafaring men when engaging in lawful strikes, 1/ the Board is not at present prepared to answer the preceding questions or to make recommendations with regard to similar problems which have arisen in connection with its study of the legal status of seamen in relation to collective bargaining. The whole subject of the legal status of seamen in relation to collective bargaining needs to be looked into with a view to clarifying existing statutes and making them conform to the accepted legal and economic concepts of the rights of workers, including seamen, to organize for the advancement of their economic interests.

The Board, therefore, recommends that as soon as possible the Congress take appropriate action to inaugurate a dispassionate and impartial study and analysis of all existing laws affecting seamen in order that these laws may be brought into line with present-day conditions of water transportation and with the declared policy of the Congress of the United States regarding the encouragement of the practices and procedures of collective bargaining in the maritime industry.

1/ See Amendment 2 to Section 1002

Maritime Labor Board

Report to President And Congress

END OF TITLE